

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KADEIRA BARNES-WILLIAMS,

Plaintiff,

- against -

THE CITY OF NEW YORK, POLICE OFFICER TRAVIS
GEMBECKI, Shield No. 23343, and JOHN DOES #1-6,

Defendants.

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NOTICE OF REMOVAL

Case No. 21 Civ. 5017

Law Dept. No. 2021-001586

**TO: THE UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF NEW YORK**

Defendant THE CITY OF NEW YORK (“the City”) by and through its attorney, Georgia M. Pestana, Corporation Counsel of the City of New York, respectfully show this Court as follows:

1. On April 28, 2021, Plaintiff commenced this action by filing a Summons and Complaint in the Supreme Court of the State of New York, County of New York, under Index No. 154141/2021, naming THE CITY OF NEW YORK, POLICE OFFICER TRAVIS GEMBECKI and JOHN DOE POLICE OFFICERS #1-6 as defendants therein, and setting forth the claims for relief upon which the action is allegedly based. See Plaintiff’s Summons and Complaint, annexed hereto as “Exhibit A.”
2. Upon information and belief, POLICE OFFICER TRAVIS GEMBECKI was not served with the Summons and Complaint.¹

¹ A review of the New York State Courts of Electronic Filing (“NYSCEF”) system revealed that plaintiff has not filed an affidavit of service, indicating that service was properly effectuated upon defendant POLICE OFFICER TRAVIS GEMBECKI at his current command or place of business.

3. Upon information and belief, The City of New York (hereinafter “City”) was served with the Summons and Complaint for the above-captioned action, at 100 Church Street, New York, NY.²

4. The above-captioned action is a civil action of which the United States District Court now has original jurisdiction in that it includes causes of action which arise under the Constitution and laws of the United States, pursuant to 28 U.S.C. § 1331. This action is therefore removable to the United States District Court without regard to the citizenship or residence of the parties.

5. Plaintiff brings claims pursuant to 42 U.S.C. § 1983 alleging, *inter alia*, federal claims of denial of right to free speech, false arrest, right to due process, excessive force, unreasonable search and seizure in violation of the First, Fourth and Fourteenth Amendments to the United States Constitution.

6. Defendant POLICE OFFICER TRAVIS GEMBECKI consents to removal of this action. A copy of the Consent to Removal Form of POLICE OFFICER TRAVIS GEMBECKI is annexed hereto as “Exhibit B.”

7. This Notice of Removal is timely because it is being filed within thirty (30) days of receipt of the initial pleadings by the City. See 28 U.S.C. § 1446(b).

8. Defendants will promptly file a copy of this Notice of Removal with the Clerk of the state court in which the action has been pending.

² A review of the New York State Courts of Electronic Filing (“NYSCEF”) system revealed that plaintiff has not filed an affidavit of service, indicating that service was properly effectuated upon defendant THE CITY OF NEW YORK at its current place of business.

9. Defendants are unaware of any previous application for the relief requested herein.

WHEREFORE, Defendants respectfully requests that the above-captioned action be removed from the Supreme Court of the State of New York, County of New York, to the United States District Court for the Southern District of New York.

Dated: New York, New York
June 7, 2021

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